

REMARKS

This Response is submitted in response to a Restriction Requirement issued on December 22, 2004 from the United States Patent and Trademark Office regarding the above-referenced matter. In the Restriction Requirement, the Patent Office alleges restriction to one of the following alleged species: 1) Figure 6; 2) Figure 12; 3) Figure 18; 4) Figure 22(A and B); 5) Figure 26; and 6) Figure 27; 7) Figure 33; 8) Figure 39; 9) Figure 45; 10) Figure 49 (A and B); 11) Figure 52; 12) Figure 53. Applicants provisionally elect the alleged species associated with Figure 6 as indicated above. Applicants believe that all of the presently pending claims, namely, claims 40-78, appear readable on the alleged species.

Further, Applicants believe that the election of species requirement is improper. At the outset, each of the alleged species relates to semiconductor light-emitting elements that include a semiconductor compound, such as a Wurtzite-type crystal structure and semiconductor light-emitting devices, image display devices and illumination devices that can utilize same.

As further supported in the specification, the present invention, in general, relates to semiconductor light-emitting elements that are capable of emitting multi-color or white light by use of a compound semiconductor that has a Wurtzite-type crystal structure. See, Preliminary Amendment, page 1.

At a minimum, the alleged species directed Figures 26, 27 and 45 should be examined together with claimed subject matter directed to the elected species associated with Figure 6 as discussed above. Indeed, each of these alleged species relates to semiconductor light-emitting elements that have an active layer that extends in parallel along different crystal planes, such as an S-plane, a C-plane or the like. In any event, at least some of the claims as presently pending are generic to at least some claimed subject matter directed to the non-elected species. As previously discussed, all claims as presently pending appear to read on the alleged elected species where claims 40, 50, 52, 66, 71, 72, 73, 74, 75, 76, 77 and 78 are independent claims. At a minimum, each of these independent claims are generic to claimed subject matter associated with the alleged and non-elected species directed to Figures 26, 27 and 45. Moreover, independent claims 50, 52, 66 and 73-78 are generic to any claimed subject matter directed to the remaining other alleged species that have not been elected at this time.

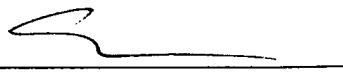
Based on at least these reasons, Applicants believe that the species restriction is improper where at a minimum claimed subject matter directed to at least some of the alleged species

should be examined together and further where at least some of the claims that are readable on the elected species are also generic to claimed subject matter directed to at least some of the alleged and non-elected species as previously discussed.

Applicants reserve the right to file a divisional application(s), if necessary, directed to any non-elected claim subject matter.

Respectfully submitted,

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